

Copyright Royalty Board, Library of Congress

§ 354.1

within the zone of reasonableness established by the record.

SOURCE: 70 FR 30905, May 31, 2005, unless otherwise noted.

§ 353.2 Form and content of rehearing motions.

A motion for rehearing shall not exceed 10 pages in length and must set forth, in the beginning of its text, a brief summary statement of the aspects of the determination believed by the moving participant to be without evidentiary support in the record or contrary to legal requirements.

§ 353.3 Procedure on rehearing.

Upon receipt of a motion for rehearing, the Copyright Royalty Board will issue an order either denying the motion or ordering further proceedings. No participant shall file a response to a rehearing motion, unless such response is allowed by order of the Copyright Royalty Board.

§ 353.4 Filing deadline.

A motion for hearing must be filed within 10 days after the date on which the Copyright Royalty Board delivers to the participants an initial determination.

§ 353.5 Participation not required.

In any case in which a response to a rehearing motion is allowed, or rehearing is granted, an opposing party shall not be required to participate in the rehearing. The Copyright Royalty Board will not draw any negative inference from a lack of participation in a rehearing. However, participants should be aware that nonparticipation in rehearing proceedings may limit the scope of their participation in judicial review proceedings as set forth in 17 U.S.C. 803(d)(1).

PART 354—SUBMISSIONS TO THE REGISTER OF COPYRIGHTS

Sec.

354.1 Material questions of copyright law.

354.2 Novel questions.

354.3 Register of Copyrights' authority to redesignate referrals.

354.4 Consultation regarding acts required by the Register of Copyrights.

354.5 Jurisdiction of the Copyright Royalty Board unaffected.

AUTHORITY: 17 U.S.C. 802.

§ 354.1 Material questions of copyright law.

(a) *Discretionary referrals.* The Copyright Royalty Board may seek guidance from the Register of Copyrights with respect to a material question of substantive law, concerning an interpretation or construction of those provisions of the Copyright Act, that arises in the course of their proceedings.

(b) *How presented.* One or more of the Copyright Royalty Judges may refer what he or she believes to be a material question of substantive law to the Register of Copyrights at any time during a proceeding.

(c) *Motion; content.* Any participant may submit a motion to the Copyright Royalty Board (but not to the Register of Copyrights) requesting their referral to the Register of Copyrights a question that the participant believes would be suitable for referral under paragraph (a) of this section. The motion should be captioned "Motion of [Participant(s)] Requesting Referral of Material Question of Substantive Law." The motion should set forth, at the outset, the precise legal question for which the moving party is seeking interlocutory referral to the Register of Copyrights. The motion should then proceed to explain, with brevity, why the issue meets the criteria for potential referral under paragraph (a) of this section and why the interests of fair and efficient adjudication would be best served by obtaining interlocutory guidance from the Register of Copyrights. The motion should not include argument on the merits of the issue, but may include a suggested schedule of briefing that would make reasonable provision for comments and legal arguments, in such a way as to avoid delay and duplication.

(d) *Time of motion.* A motion for referral of a material question of substantive law to the Register of Copyrights should be filed as soon as possible in the relevant proceeding. However, such a motion may be submitted to the Copyright Royalty Board at any time before a final determination is issued.